

# MISSOURI DEPARTMENT OF ECONOMIC DEVELOPMENT

## DIVISION OF CREDIT UNIONS

### NEWSLETTER

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#### HEALTH SAVINGS ACCOUNTS

Missouri credit unions can serve as trustees for health savings accounts (HSAs) established by their members. Additional information about HSAs, including details concerning the type of high deductible health plan an individual must obtain to qualify for an HSA, is available from the Public Affairs Office of the U.S. Department of the Treasury. The information and the proposed forms are directly accessible from the Treasury web site, [www.ustreas.gov](http://www.ustreas.gov). Authority for this activity is found in RSMo 370.070(1), 370.070(10) and 4 CSR 100-2.080(4F).

NCUA recently amended its rules [12 CFR Parts 721 and 724](#) to permit federal credit unions under incidental powers to serve as trustees for HSAs.

#### CHECK 21

The Check Clearing for the 21<sup>st</sup> Century Act, often referred to as Check 21, becomes effective October 28, 2004. The regulation introduced by the Federal Reserve Board provides more efficiency in the payment system process and reduces float. In essence, the Fed is using the new regulation to encourage financial institutions to process checks and share drafts electronically. Although there is no requirement to perform the electronic process, the use of this method will reduce the requirement to transport paper checks and drafts across the country, increasing efficiency within the payment processing system.

Credit unions must take at least three steps before Check 21 becomes effective:

- 1) Provide education on substitute checks and consumer recredit rights.
- 2) Be prepared to accept substitute checks.
- 3) In the first statement cycle after October 28<sup>th</sup>, members who currently receive their original share drafts in their monthly statements must be notified that they will probably begin receiving substitute drafts rather than the originals.

A substitute check/draft is basically a printed copy (which meets industry specifications) made from the electronic transmission of the original check/draft. Employees must

be trained to recognize and process a substitute check.

Although every member is not required to receive a disclosure immediately, it may be easier for credit unions to provide everyone a disclosure in the first statement after October 28<sup>th</sup> and then provide new members the disclosure at the time the account is opened.

Please be aware that substitute checks are NOT legal documents until 10/28. However, if you receive one, you may wish to contact the member to determine if it is their wish to pay the item.

What can you do to prepare for Check 21? According to the Federal Reserve Bank of Kansas City, you should do the following:

- Learn about substitute checks and how they will affect your credit union.
- Develop procedures and scripts for your member contact staff to manage inquiries and claims arising from substitute checks.
- Ensure employees understand the consumer provisions of Check 21.
- Familiarize yourself with the expedited recredit provisions required by the Act.
- Prepare to send out disclosures as required by the legislation.

*(The first in a three part series of articles on Check 21))*

#### HOOK, LINE, & SINKER

Most of us know by now not to give out our passwords, ATM PINs, or other secret information when requested by e-mail. But an increasing number of people are giving out that information, even those of us who should know better. So how are members being fooled? Let's just say it doesn't involve a pole, worms, and your favorite fishing hole.

Members are being fooled by a scheme called "Phishing". Phishing is the term coined by hackers who imitate legitimate companies, financial institutions, etc. in e-mails or pop up windows to entice people to share passwords, credit-card numbers, and all other personal information. Although phishing schemes are prevalent all over the world, Missouri credit union's received its first legitimate case in 2003 when Century Credit Union members were directed to a Web page that looked nearly identical to the credit union's site. Although

Century Credit Union quickly detected this malicious activity, this type of scam continues to present a huge risk to the naive credit union member.

The best defense a credit union can employ is educating its membership. The following should be clearly explained to your membership in an effort to avoid phishing schemes.

- If the member receives an unexpected e-mail indicating their account will be shut down unless they confirm their billing information, DO NOT REPLY OR CLICK ANY LINKS in the body of the email. Many times members may be curious to see where the link goes, however some links may have viruses or Trojan horses embedded within them that may assist in disclosing members' personal information located on their home PC.
- Before submitting financial information through a Web site, ensure the member looks for the "lock" icon on the browser's status bar. It means the Web site uses encryption technology and ensures the member's information is secure during transmission. (See Figure 1).

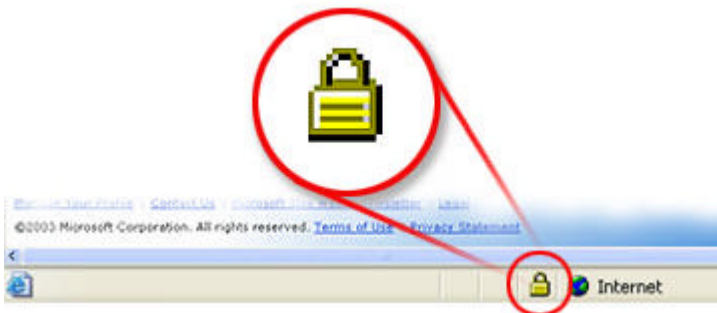


Figure 1. Secure site lock icon. If the lock is closed, then the site uses encryption.

- If the member is uncertain about the information contained on the credit union's website or email, the member should contact the credit union as soon as possible.
- If the member has already unknowingly supplied personal or financial information, the member should contact the credit union immediately.
- All suspicious e-mail can be forwarded to [uce@ftc.gov](mailto:uce@ftc.gov), and complaints should be filed with the Missouri attorney general's office <http://www.ago.mo.gov/consumercomplaint.htm> or through the Federal Trade Commission (F.T.C.) at [www.ftc.gov](http://www.ftc.gov).

If you have any questions or concerns, feel free to contact either your state examiner at (573) 751-3419 or e-mail me at [MO04@NCUA.gov](mailto:MO04@NCUA.gov).

Brad Schone  
Assistant Financial Examiner II

## FIELD OF MEMBERSHIP UP DATE

**Springfield Telephone Employees Credit Union** (now **Telcomm Credit Union**) submitted an application to include those persons who reside or work in the 417 telephone Area Code and the 573 (bordered on the north by I-70) telephone Area Code. The Director approved the expansion of **Springfield Telephone Employees Credit Union** to those in the 417 Area Code, but not the 573 Area Code. The decision was published in the November 15, 2000 Missouri Register. On November 30, 2000 the Missouri Bankers Association (MBA) and Century Bank of the Ozarks (CBO) filed an appeal of the decision to the Credit Union Commission. The Commission heard the appeal on March 29, 2001. On May 24, 2001 the Commission upheld the decision of the Director. On August 16, 2001, the decision was released and the Director filed **Springfield Telephone Employees Credit Union's** amended bylaws with the Secretary of State. On September 14, 2001, the MBA and CBO filed a petition for administrative review in Cole County Circuit Court.

On November 19, 2001, a hearing was held before Judge Tom Brown, Division 1, Circuit Court of Cole County. The motion to refer the case to another division of the court was granted and the case was referred to Judge Byron Kinder, Division 2. A motion to dismiss the case for lack of standing was heard on January 3, 2002. On January 29, 2002 the court ruled the plaintiffs lack standing to maintain causes of action set forth in their petition and ordered the plaintiffs' petition be dismissed. On March 11, 2002 the MBA and CBO filed an appeal of the decision in the Western Appellate Court of Appeals. Appellant's briefs were due June 3, 2002 with the respondent's briefs due July 3, 2002. A hearing by the Western Appellate Court was held on October 3, 2002 in Kansas City. On January 14, 2003, the Appellate Court upheld the decision of Cole County Circuit Court. On January 14, 2003, the MBA and CBO filed motions for a rehearing and transfer to the Missouri Supreme Court. The Appellate Court on March 4, 2003 denied the motions. On April 23, 2003, the Missouri Supreme Court issued an order transferring the case to their jurisdiction. On December 9, 2003 the Court reversed the decision of the lower courts and remanded the case. The opinion can be read at

<http://www.osca.state.mo.us/Courts/PubOpinions.nsf/0f87ea4ac0ad4c0186256405005d3b8e/d1c9a3590b16be4286256df6006dbc43?OpenDocument>.

The case has now been combined with **South Community Credit Union, Central Communications Credit Union, Educational (Vantage) Credit Union and City Utilities Credit Union**. A hearing on a motion to dismiss was held on August 4, 2004 in Cole County Circuit Court. As of August 18, 2004 no decision has been released.

**South Community Credit Union** submitted an application for those who work or reside in Zip Codes 63109, 63111, 63116, 63123, 63125, 63128, 63129, and Crawford County, Franklin County, Gasconade County and Washington County. **Central Communications Credit Union** submitted an application for those persons who reside or work in the 816 telephone Area Code. The Director approved the applications submitted by **South Community and Central Communications Credit Unions**. These decisions were published in the November 15, 2000 Missouri Register. On November 30, 2000 the MBA and two local banks located in each of the two applicants' field of membership expansion areas filed appeals of the decisions to the Credit Union Commission. The Commission received the record of appeals from all parties on May 24, 2001. On August 9, 2001, the Commission upheld the decisions of the Director. The written decisions were released on January 25, 2002. On February 21, 2002, the MBA and the local banks filed a petition for administrative review in Cole County Circuit Court. Both cases were assigned to Judge Tom Brown, Division 1. On April 17, 2002 the cases were reassigned to Judge Byron L. Kinder, Division 2 and a motion was entered to stay the proceedings until the outcome of the Springfield Telephone Employees case was decided. The cases can be followed on the internet at <http://casenet.osca.state.mo.us/casenet/>; the case numbers are 02CV323402 and 02CV323401. The case has now been combined with **South Community Credit Union, Central Communications Credit Union, Educational (Vantage) Credit Union and City Utilities Credit Union**. A hearing on a motion to dismiss was held on August 4, 2004 in Cole County Circuit Court. . As of August 18, 2004 no decision has been released.

**Vantage Credit Union** (formerly **Educational Employees Credit Union**) submitted an application for those who live or work in St. Louis County, St. Charles County, Jefferson County, Cape Girardeau County and Franklin County. The application was published in the December 15, 2000 Missouri Register. The Director approved the application and his decision was published in the February 15, 2001 Missouri Register. On March 1, 2001 the MBA and two banks located in the applicant's field of membership expansion area filed an appeal of the decision to the Credit Union Commission. The Commission received the record of appeal of **Educational Employees Credit Union** on October 19, 2001 and established briefing schedules. On March 5, 2002, the Commission dismissed the appeal due to lack of standing. On July 18, 2002 the MBA and the two banks filed a Petition in Mandamus in Cole County Circuit Court. On May 22, 2004 an amended petition was filed. The case can be followed on the internet at <http://casenet.osca.state.mo.us/casenet/>; case number 02CV324797. The case has now been combined with **South Community Credit Union, Central Communications Credit Union, Educational (Vantage) Credit Union and City Utilities Credit Union**. A hearing on a motion to dismiss was held on

August 4, 2004 in Cole County Circuit Court. As of August 18, 2004 no decision has been released.

**City Utilities Credit Union** submitted an application for community residents and workers in Greene and Christian Counties. The application was published in the June 1, 2001 Missouri Register. The Director approved the application and his decision was published in the August 1, 2001 Missouri Register. On August 14, 2001 the MBA and a local bank located within the applicant's field of membership expansion area filed an appeal of the decision to the Credit Union Commission. On August 8, 2002 the Commission heard and denied the appeal for lack of standing. The decision was released on December 9, 2002. On January 2, 2003, MBA and the local bank filed a Petition in Mandamus in Cole County Circuit Court. The case can be followed on the internet at <http://casenet.osca.state.mo.us/casenet/>; case number 03CV323001. The case has now been combined with **South Community Credit Union, Central Communications Credit Union, Educational (Vantage) Credit Union and City Utilities Credit Union**. A hearing on a motion to dismiss was held on August 4, 2004 in Cole County Circuit Court. As of August 18, 2004 no decision has been released.

**First Community Credit Union** submitted an application for individuals who reside or work in the counties of Lincoln, Warren, Franklin, Washington, St. Francois, Ste. Genevieve, Pike, Montgomery, Gasconade and Crawford in the state of Missouri and the City of St. Louis. The application was published in the August 1, 2002 Missouri Register. The Director approved the application and his decision was published in the September 16, 2002 Missouri Register. On September 26, 2002 the MBA and a local bank located within the field of membership expansion area filed an appeal of the decision to the Credit Union Commission. On November 19, 2003 the Commission heard the appeal. On January 13, 2004 the Commission upheld the decision of the Director. The written decision was released on February 25, 2004. On March 19, 2004 the MBA and a local bank filed a petition for administrative review in Cole County Circuit Court. On April 13, 2004 a docket entry 'Order to Stay Proceedings' was entered. The case can be followed on the internet at <http://casenet.osca.state.mo.us/casenet/>; case number 04CV323859.

**Alliance Credit Union** submitted an application for those who work or reside in St. Charles County or St. Louis County. The application was published in the November 15, 2002 Missouri Register. The Director approved the application and his decision was published in the January 16, 2003 Missouri Register. On January 30, 2003, the MBA and Allegiant Bank filed an appeal of the Director's decision with the Credit Union Commission. On November 19, 2003 the Commission heard the appeal. On January 13, 2004 the Commission upheld the decision of the Director. The written decision was released on February 25, 2004. On March 19, 2004



the MBA and a local bank filed a petition for administrative review in Cole County Circuit Court. On April 13, 2004 a docket entry 'Order to Stay Proceedings' was entered. The case can be followed on the internet at <http://casenet.osca.state.mo.us/casenet/>; case number 04CV323857.

**St. Louis Postal Credit Union** submitted an application for those who live or work in the Zip Codes 63005, 63017, 63042, 63043, 63044, 63126, 63127 and St. Charles County. The application was published in the December 2, 2002 Missouri Register. The director approved the application and his decision was published in the January 16, 2003 Missouri Register. On January 30, 2003, the MBA and Midwest Bank Centre filed an appeal of the Director's decision with the Credit Union Commission. On November 19, 2003 the Commission heard the appeal. On January 13, 2004 the Commission upheld the decision of the Director. The written decision was released on February 25, 2004. On March 19, 2004 the MBA and the local bank filed a petition for administrative review in Cole County Circuit Court. On April 13, 2004 a docket entry 'Order to Stay Proceedings' was entered. The case can be followed on the internet at <http://casenet.osca.state.mo.us/casenet/>; case number 04CV323855.

**United Community Credit Union**, an Illinois chartered credit union, submitted an application for those who live or work in the Missouri counties of Lewis, Ralls and Marion. The application was published in the January 2, 2003 Missouri Register. The director approved the application and his decision was published in the February 18, 2003 Missouri Register. On March 4, 2003 the MBA and the Farmers and Merchants Bank and Trust Company filed an appeal of the Director's decision with the Credit Union Commission. On November 19, 2003 the Commission heard the appeal. On January 13, 2004 the Commission upheld the decision of the Director. The written decision was released on February 25, 2004. On March 19, 2004 the MBA and the local bank filed a petition for administrative review in Cole County Circuit Court. On April 13, 2004 a docket entry 'Order to Stay Proceedings' was entered. The case can be followed on the internet at <http://casenet.osca.state.mo.us/casenet/>; case number 04CV323858.

**Aerospace Community Credit Union** submitted an application for those who live or work in the remainder of St. Louis City, St. Louis County and St. Charles County that is not currently in the **Aerospace Community Credit Union's** field of membership and those who live or work in Lincoln County. The application was published in the May 1, 2003 Missouri Register. The director approved the application and his decision was published in the July 1, 2003 Missouri Register. On July 14, 2003 the MBA and the First National Bank of St. Louis filed an appeal of the Director's decision with the Credit Union Commission. On November 19, 2003 the Commission heard the appeal. On January 13, 2004 the Commission

upheld the decision of the Director. The written decision was released on February 25, 2004. On March 19, 2004 the MBA and the local bank filed a petition for administrative review in Cole County Circuit Court. On April 13, 2004 a docket entry 'Order to Stay Proceedings' was entered. The case can be followed on the internet at <http://casenet.osca.state.mo.us/casenet/>; case number 04CV323852.

**Midwest United Credit Union** submitted an application for all eligible businesses, government entities, individuals and the immediate family of all eligible individuals who live or work in Platte County, Missouri. The Director approved these applications and his decision was published in the April 1, 2004 Missouri Register. On April 14, 2004, MBA and Platte Valley State Bank filed an appeal of the Director's decision with the Credit Union Commission. The Commission will schedule the appeal for hearing.

**Clay County Teachers Credit Union** submitted an application to include those who reside or work in Platte County, Missouri. The Director approved the application and his decision and the findings of fact and conclusions of law were published in the July 1, 2004 Missouri Register. On July 13, 2004, MBA and Platte Valley State Bank filed an appeal of the Director's decision with the Credit Union Commission. On August 3, 2004 the application was withdrawn.

**Century Credit Union** submitted an application to include persons working or residing in Jefferson County, Missouri. The applications were published in the May 17, 2004 Missouri Register. The Director approved the application and his decision and the findings of fact and conclusions of law were published in the July 1, 2004 Missouri Register. On July 13, 2004, MBA and Midwest Bankcentre filed an appeal of the Director's decision with the Credit Union Commission. The Commission will schedule the appeal for hearing.

**Lake City Credit Union** submitted an application for persons living or working in the Zip Codes of 64055, 64029 and 64075. The application will be published in the September 1, 2004 Missouri Register. A ten business day period must follow before the Director can make a decision.

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## From the Director...

### Personnel changes:

Senior Financial Examiner Nick Morris has resigned. Nick was assigned to the Kansas City region.

John Hankin will begin employment as a Financial Examiner Assistant I, on September 1, 2004. John will be assigned to the Kansas City region.

Assistant Financial Examiner II Brad Schone is now the Division's information systems and technology (IS & T)

examiner. Brad will be contacting credit unions for information regarding their web sites and data systems and performing IS & T examinations.

**Call report information:**

The next call report sent to each credit union will be the September 30, 2004 cycle. Credit unions under 10 million in assets will have the option of filling out the 5300 E-Z short form instead of the standard long form.

A branch information update form will also be sent out with the September cycle. Returning this form will aid the Division in maintaining an accurate database of credit union branches with correct addresses and phone numbers.

State and Federal Consolidated Reports from the June 30, 2004 cycle are now available on the Division's web site.

**Status of field of membership expansion appeals:**

Through this Newsletter a list of credit unions whose application for field of membership is active is published. Here is a summary of the current status of my decisions undergoing administrative review in Cole County Circuit Court:

**Telcomm Credit Union (Springfield Telephone Credit Union), South Community Credit Union, Central Communications Credit Union, City Utilities Credit Union and Vantage Credit Union (Educational Employees Credit Union)** appeals have been combined into one case by Cole County Circuit Court. A hearing on the motion to dismiss the appeals was heard on August 4, 2004. As of August 18, 2004 no decision has been released. If the motion to dismiss is denied, a decision by the court is expected in late 2004.



**John P. Smith, Director**

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*Nothing is so admirable in politics as a short memory.*

*John Kenneth Galbraith*

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